

ASSEMBLY BILL

No. 501

Introduced by Assembly Member Campos

February 15, 2011

An act to amend Section 3540.1 of the Government Code, relating to public school employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 501, as introduced, Campos. Public school employment.

(1) Under existing law, public school employees have the right to form, join, and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Existing law defines the term “public school employer” or “employer” for the purposes of negotiations on collective bargaining agreements covering public school employees, as the governing board of a school district, a school district, a county board of education, a county superintendent of schools, or certain charter schools. Existing law also authorizes public agencies to agree to join together as joint powers agencies for specified purposes.

This bill would expand the definition of “public school employer” or “employer” to include joint powers agencies created as an entity separate from the parties to the joint powers agreement with separate employees that meet certain additional criteria. By requiring joint powers agencies to engage in collective bargaining with their separate employees, this bill would impose a state-mandated local program.

(2) Existing law defines the term “exclusive representative” as the employee organization recognized or certified as the exclusive negotiating representative of certificated or classified employees in an appropriate unit of a public school employer.

This bill would change the definition of “exclusive representative” to the employee organization recognized or certified as the exclusive negotiating representative of all public school employees, as defined. To the extent that this would increase the duties on school districts with respect to collective bargaining, it would impose a state-mandated local program.

(3) This bill would make various technical, nonsubstantive changes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3540.1 of the Government Code is
2 amended to read:
3 3540.1. As used in this chapter:
4 (a) “Board” means the Public Employment Relations Board
5 created pursuant to Section 3541.
6 (b) “Certified organization” or “certified employee organization”
7 means an organization ~~which~~ *that* has been certified by the board
8 as the exclusive representative of the public school employees in
9 an appropriate unit after a proceeding under Article 5 (commencing
10 with Section 3544).
11 (c) “Confidential employee” means ~~any~~ *an* employee who is
12 required to develop or present management positions with respect
13 to employer-employee relations or whose duties normally require
14 access to confidential information that is used to contribute
15 significantly to the development of management positions.
16 (d) “Employee organization” means ~~any~~ *an* organization ~~which~~
17 *that* includes employees of a public school employer and ~~which~~
18 *that* has as one of its primary purposes representing those
19 employees in their relations with that public school employer.
20 “Employee organization” shall also include any person of the
21 organization authorized to act on its behalf.

1 (e) “Exclusive representative” means the employee organization
2 recognized or certified as the exclusive negotiating representative
3 of ~~certified or classified~~ *public school employees, as “public*
4 *school employee” is defined in subdivision (j),* in an appropriate
5 unit of a public school employer.

6 (f) “Impasse” means that the parties to a dispute over matters
7 within the scope of representation have reached a point in meeting
8 and negotiating at which their differences in positions are so
9 substantial or prolonged that future meetings would be futile.

10 (g) “Management employee” means ~~any~~ *an* employee in a
11 position having significant responsibilities for formulating district
12 policies or administering district programs. Management positions
13 shall be designated by the public school employer subject to review
14 by the Public Employment Relations Board.

15 (h) “Meeting and negotiating” means meeting, conferring,
16 negotiating, and discussing by the exclusive representative and
17 the public school employer in a good faith effort to reach agreement
18 on matters within the scope of representation and the execution,
19 if requested by either party, of a written document incorporating
20 any agreements reached, which document shall, when accepted
21 by the exclusive representative and the public school employer,
22 become binding upon both parties and, notwithstanding Section
23 3543.7, is not subject to subdivision 2 of Section 1667 of the Civil
24 Code. The agreement may be for a period of not to exceed three
25 years.

26 (i) “Organizational security” is within the scope of
27 representation, and means either of the following:

28 (1) An arrangement pursuant to which a public school employee
29 may decide whether or not to join an employee organization, but
30 which requires him or her, as a condition of continued employment,
31 if he or she does join, to maintain his or her membership in good
32 standing for the duration of the written agreement. However, an
33 arrangement ~~may~~ *shall* not deprive the employee of the right to
34 terminate his or her obligation to the employee organization within
35 a period of 30 days following the expiration of a written agreement.

36 (2) An arrangement that requires an employee, as a condition
37 of continued employment, either to join the recognized or certified
38 employee organization, or to pay the organization a service fee in
39 an amount not to exceed the standard initiation fee, periodic dues,
40 and general assessments of the organization for the duration of the

1 agreement, or a period of three years from the effective date of the
2 agreement, whichever comes first.

3 (j) “Public school employee” or “employee” means ~~any~~ a person
4 employed by ~~any~~ a public school employer except persons elected
5 by popular vote, persons appointed by the Governor of this state,
6 management employees, and confidential employees.

7 (k) “Public school employer” or “employer” means the
8 governing board of a school district, a school district, a county
9 board of education, a county superintendent of schools, ~~or~~ a charter
10 school that has declared itself a public school employer pursuant
11 to subdivision (b) of Section 47611.5 of the Education Code ~~-, or~~
12 *a joint powers agency, except a joint powers agency established*
13 *to provide services pursuant to Section 990.8, if all the following*
14 *apply to the joint powers agency:*

15 (1) *It is created as an agency or entity that is separate from the*
16 *parties to the joint powers agreement pursuant to Section 6503.5.*

17 (2) *It has its own employees separate from employees of the*
18 *parties to the joint powers agreement.*

19 (3) *Any of the following are true:*

20 (A) *It provides services primarily performed by a school district,*
21 *county board of education, or county superintendent of schools.*

22 (B) *A school district, county board of education, or county*
23 *superintendent of schools is designated in the joint powers*
24 *agreement pursuant to Section 6509.*

25 (C) *It is comprised solely of school agencies.*

26 (l) “Recognized organization” or “recognized employee
27 organization” means an employee organization ~~which~~ that has
28 been recognized by an employer as the exclusive representative
29 pursuant to Article 5 (commencing with Section 3544).

30 (m) “Supervisory employee” means ~~any~~ an employee, regardless
31 of job description, having authority in the interest of the employer
32 to hire, transfer, suspend, lay off, recall, promote, discharge, assign,
33 reward, or discipline other employees, or the responsibility to
34 assign work to and direct them, or to adjust their grievances, or
35 effectively recommend that action, if, in connection with the
36 foregoing functions, the exercise of that authority is not of a merely
37 routine or clerical nature, but requires the use of independent
38 judgment.

39 SEC. 2. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

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